

REMARKS

This paper is in response to the Final Office Action mailed June 23, 2010. Upon entry of this paper, claims 1, 4, 5, 10, 16, 18-21, 24, 25, 27, 29, 34, 35, 38, 42, 43, and 64 are pending in this application.

Response to Rejection of Claim 1

In the Final Office Action, claim 1 was rejected under 35 U.S.C. §103(a) as being unpatentable over Dunmire (U.S. Patent 4,519,098). In response, Applicants respectfully traverse the rejection and submit that the cited reference fails to teach or disclose the method of making garment material as required by claim 1.

Dunmire discloses a method for producing protective work gloves and other wearing apparel having a variety of different protective and surface characteristics. The method includes developing a work glove including its liner in a series of steps applied sequentially to a single form moving through a production line while eliminating the need for a separate operation for producing fabric liners including cutting, sewing, and the manual loading of each individual liner on a form for subsequent dipping and coating operations.

As recognized by the Examiner, claim 1 requires allowing for the coagulant to coagulate some of the foam for a controlled period so that an underside of the layer of foam polymeric material coagulates to form a coagulated layer, and an outer part of the foam layer does not coagulate and forms an uncoagulated layer. The Examiner indicates that column 9, lines 1 to 2 of Dunmire disclose this feature. However, those lines are part of a description of a process which begins on column 8, line 37 of the Dunmire reference. That disclosed process includes:

1. Dipping the previously formed gloves into a latex foam,
2. Blowing out webs from between the finger stalls,
3. Dipping in coagulant to “set-up” the coating, and
4. Rinsing in water.

It is noted that no coagulant is applied to the glove before it is dipped in foam. The foam is coagulated by the third of the steps outlined above, i.e., dipping the foam in coagulant. Therefore, the foam layer will coagulate from the outside. It is therefore not possible for this process to end with a coagulated underside of the foam layer and an un-coagulated outer layer as required by claim 1. The subsequent step of rinsing in a water bath therefore could not wash off an un-coagulated outer layer of the foam. As best understood, the water bath is purely for leaching out soluble chemicals from the gloves, typically residual coagulant salt. This is well known in the art and consistent with statements made in Dunmire, for example, at column 8, lines 10 to 12, and in step (c) of claim 20.

The step in Dunmire of blowing out webs between the finger stalls occurs prior to the step of dipping in coagulant. Therefore, blowing out the webs also cannot be considered as removing an un-coagulated layer from the top of a coagulated layer.

It is well settled that the Examiner “bears the initial burden of presenting a *prima facie* case of unpatentability . . .” *In re Sullivan*, 498 F.3d 1345 (Fed. Cir. 2007). To establish a *prima facie* case of obviousness, the PTO must establish at least three elements. First, the prior art reference (or references when combined) must teach or suggest all of the claim limitations: “All words in a claim must be considered in judging the patentability of the claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 165 U.S.P.Q. 494, 496 (CCPA 1970); *see also* M.P.E.P. § 2143.03. Second, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091 (Fed. Cir. 1986); *see also* M.P.E.P. §2143.02. Finally, the Examiner must articulate some reason to modify or combine the cited references that renders the claim obvious. Merely establishing that the claimed elements can be found in the prior art is not sufficient to establish a *prima facie* case of obviousness.

Since the combination of the cited references fails to teach the required steps of allowing for the coagulant to coagulate some of the foam for a controlled period so that an underside of the layer of foam polymeric material coagulates to form a coagulated layer, and an outer part of the foam layer does not coagulate and forms an uncoagulated layer, and removing the uncoagulated foam from the substrate before a film skin can form on the layer of foam to leave a cohesive, porous, and breathable coagulated layer of polymeric material on the substrate as required by

claim 1, Applicants submit that a *prima facie* case of obviousness has not been established. In fact, Applicants submit that the cited reference actually teaches away from the current invention in that the coagulant is added after the substrate has been dipped in the foam.

It is submitted that the Vogt et al. (U.S. Patent No. 6,475,562) and Halley et al. (U.S. Publication No. 2002/0197924) references cited in relation to certain dependent claims also do not teach or suggest this feature and therefore cannot cure the deficiencies of Dunire.

Accordingly, claim 1 is not anticipated by or made obvious by the cited reference and favorable consideration of claim 1 is respectfully requested. Claims 4, 5, 10, 16, 18-21, 24, 25, 27, 29, 34, 35, 38, 42 and 43 depending directly or indirectly from claim 1, are submitted as patentable over the cited references for at least the same reasons.

#### New Claim 64

New claim 64 also contains the limitations of allowing for the coagulant to coagulate some of the foam for a controlled period so that an underside of the layer of foam polymeric material coagulates to form a coagulated layer, and an outer part of the foam layer does not coagulate and forms an uncoagulated layer, and removing the uncoagulated foam from the substrate before a film skin can form on the layer of foam to leave a cohesive, porous, and breathable coagulated layer of polymeric material on the substrate as discussed above with respect to claim 1. Therefore, it is submitted that this new claim also is patentable over the cited art.

#### Conclusion

In view of the remarks made herein, Applicants submit that the claims presented herein are patentably distinguishable from the art applied, and prompt allowance of the application is respectfully requested.

Should the Examiner determine that anything else is desirable to place this application in even better form for allowance, the Examiner is respectfully requested to contact the undersigned by telephone.

Respectfully submitted,

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